

taken over to the other body, which every year turns back this work.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), the distinguished ranking member of the subcommittee.

□ 1300

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would say to my esteemed and honorable friend, the gentleman from California (Mr. CUNNINGHAM), his cause is extremely noble. I honor him as I honor those who have served in the United States military and those who sit as Americans with the privilege and freedom of pledging allegiance to the flag of the United States, a nation representing the freest persons in the world.

Humbly I say in debate that I love America and I love the flag. I come from a generation that required the pledge of allegiance every single morning, and through the process of the Committee on the Judiciary, I have come to understand the value of the Constitution of the United States and the privileges that are given.

Might I say that I also stand here as an American who did not come to this Nation free. I realize the importance of changing laws, for this Constitution declared me as three-fifths of a person, and the early history of this flag had slavery.

In spite of all of that, in a tumultuous civil rights movement, I can frankly say, I love America. But I am warned and cautious about what America stands for. I believe that America stands for freedom of expression, freedom of choices, freedom of the ability to express one's religion, and, as well, to express one's opposition.

In the last 20 years, I do not think any one of us could count a time that we have seen a flag-burning. I would simply say that the very moving story of my colleague suggested that, in fact, there might be question as to whether or not desecrating a flag includes sewing it into one's pocket.

This Constitution and the symbol of the flag represents who we are as a nation. The flag is a symbol. This legislation which would require, an amendment to the Constitution of the United States counter what our Constitution stands for. If we just think about it, it counters what the flag stands for freedom and justice.

Let me read very briefly the words of a veteran, a constituent of mine who writes to urge us to oppose House Joint Resolution 36, the proposed constitutional amendment to outlaw desecration of the United States flag.

He agrees with other veterans, such as General Colin Powell and Senator John Glenn, that "... such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag, but in proposing to unravel the first amendment, they desecrate

what the flag represents and what I swore to defend and risked dying for when I took my military oath of office, the Constitution and the principles of liberty and freedom."

Mr. Speaker, that is why I am here on the floor of the House, not to desecrate the flag or disrespect it, but to defend the principles of liberty and freedom. Do we need language to tell us how cherished and precious our flag is? Do we need to deny someone else their right to the opposition?

I am reminded of the tenets of Christianity. It is not by the word we speak, but by our deeds. And if, in fact, our deeds are honoring the flag of the United States, then it will counter those deeds of someone else who we believe dishonors that flag, because we have the right to express our freedom and our beliefs, and they likewise have the right to express theirs.

I call upon this Congress, though I know this House has repeatedly voted three or four times on this particular resolution and it has not prevailed, but the Supreme Court, with which I have agreed and disagreed, twice has said the rules to eliminate the desecration of the symbol of the flag take away the rights under this Constitution and the principles we hold so dear.

I would much rather defend, if I was given the privilege, the gentleman's right to speak in opposition to me, as opposed to upholding a cloth which I believe stands brightly and boldly on its own without intrusion by legislation which denies the privilege of the rights of freedom and dignity.

I submit for the RECORD the letter to which I referred earlier, as follows:

HOUSTON, TX,
June 6, 2001.

Hon. SHEILA JACKSON LEE,
Cannon House Office Building, House of Representatives, Washington, DC.

REPRESENTATIVE JACKSON LEE: As your constituent, I strongly urge you to oppose HJ Res. 36/SJ Res. 7, the proposed constitutional amendment to outlaw desecration of the United States flag. I agree with other veterans such as General Colin Powell and Senator John Glenn that such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag. But in proposing to unravel the First Amendment, they desecrate what the flag represents, and what I swore to defend—and risked dying for—when I took my military oath of office: the Constitution and its principles of liberty and freedom.

While flag burning is rare, it can be a powerful and important form of speech. As a patriotic American, I may be deeply troubled by the content of this political speech.

However, it is a far worse crime against this country and dishonors veterans that Congress annually attempts to take away our right to freedom of expression.

Again, I urge you to oppose HJ Res. 36/SJ Res. 7. Of the gallant Americans who fought and died in the service of our country within the last 200 years, I tell you this: They did not die defending the flag. They died defending our freedom and the ideals upon which our country was founded. Don't cheapen their sacrifice by supporting this misguided amendment.

I look forward to hearing your thoughts on this proposed constitutional amendment.

Respectfully,

CHARLES A. SPAIN, Jr.

Mr. Speaker, I rise, once again, in opposition to this amendment to the Constitution to prohibit physical desecration of the flag of the United States because it is unnecessary and is a flagrant chilling of free speech protected by the First Amendment.

Supporters of this constitutional amendment are responding to the 1989 and 1990 Supreme Court decisions that struck down state and federal statutes that barred flag desecration on constitutional grounds that they chilled our First Amendment right to free speech and expression. The Court was right then, and we should follow its example today.

Mr. Speaker, make no mistake about it: this amendment compromises the Bill of Rights, which is fundamental to our freedom of speech and expression. These are, perhaps, our most basic tenets and pillars of our American democratic system.

In *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943), esteemed Justice Jackson wrote the following warning for those in government who would seek to force their thoughts upon the citizenry: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein." *Id.*, at 642. The resolution on the floor today amends the Bill of Rights for the first time in 210 years, and would set a dangerous precedent by opening the floodgates for the restructuring of our democracy by eroding the basic tenets of freedom and liberty that define our Nation.

Furthermore, this amendment would open the door to excessive litigation because the wording is vague on its face. For example, the amendment fails to define "flag" and "desecration" which are at the very heart of the amendment. These alone are reason enough to strike down the amendment on vagueness grounds.

Supporters of this amendment to constrain speech and dissent based on its content have read *United States v. Eichman*, 496 U.S. 310 (1990), as meaning that sweepingly general language is somehow less of an affront to free speech than specific prohibitions like those in the repealed "Flag Protection Act of 1989." The opposite is true: the amendment is overbroad, giving Congress the power to criminalize political and expressive acts of speech and expression that fall short of flag burning. Thus, the amendment we discuss today will result in a sweeping abridgment of the whole Bill of Rights. This body cannot be responsible for such a reckless act.

Mr. Speaker, I believe that our flag is a symbol of our freedom, our liberty, and our system of justice. I personally find flag burning and desecration to be offensive and disgraceful. But I stand with the Supreme Court in my belief such conduct falls within the scope of the First Amendment, the lynchpin of our democracy. So while it hurts to watch a few individuals who publicly desecrate our flag, the fact that we allow such speech is what makes us free and what makes us great as a nation.

If we are truly concerned about honoring the flag and the millions of Americans who have fought under it for the freedom that it represents, we must, above all else, protect the